

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
DEL RIO DIVISION

GENESIS LOMBRANA, §
INDIVIDUALLY, AS §
REPRESENTATIVE OF THE ESTATE §
OF JOSE ANGEL SOLIS, AS NEXT §
FRIEND OF S.A. SOLIS, AND IN UTERO §
BABY SOLIS §
Plaintiffs, §

v. §

Cause of Action No. 2:18-cv-00064

GLOBAL FREIGHT §
MANAGEMENT, INC, and §
JULIE C. BREITENFIELD §
Defendants. §

DEFENDANT'S NOTICE OF REMOVAL

TO: The Honorable United States District Court for the Western District of Texas, Del Rio Division:

Defendant Global Freight Management, Inc. ("Global Freight"), files this notice of removal under 28 U.S.C. §1446(a) to the United States District Court for the Western District of Texas, Del Rio Division, and would respectfully show:

A. Introduction

1. On October 19, 2018, Plaintiffs Genesis Lombrana, Individually, as Representative of the Estate of Jose Angel Solis, As Next Friend of S. A. Solis, and In Utero Baby Solis, served her lawsuit on Defendant Global Freight in the District Court of Maverick County, Texas. In her suit styled: *Genesis Lombrana, Individually, as Representative of the Estate of Jose Angel Solis, As Next Friend of S. A. Solis, and In Utero Baby Solis, Plaintiffs, v. Global Freight Management, Inc., and Julie C. Breitenfeld*; Cause No. 18-09-36347-MCVAJA, in the 365th Judicial District Court of Maverick County, Texas, Plaintiffs allege causes of action for negligence, negligence, *per se*

and gross negligence under the Texas Wrongful Death and Survivorship Acts, related to a traffic accident in Maverick County, Texas, in which Plaintiffs' Decedent Jose Angel Solis ran in front of and collided with a vehicle owned by Defendant Global Freight and operated by its employee, Defendant Julie C. Breitenfield, and which resulted in his death. *See* Exhibit "A". Plaintiffs seek damages in excess of \$75,000.

2. Defendant Global Freight was served with the suit through service on the Secretary of State of the state of Texas on October 15, 2018. Defendant Global Freight files this Notice of Removal within the 30-day time period required by 28 U.S.C. §1446(b). *Bd. of Regents of Univ. of Tex. Sys. v. Nippon Tel. & Tel. Corp.*, 478 F.3d 274, 278 (5th Cir. 2007).

B. Basis for Removal

3. Removal is proper because there is complete diversity between the parties. 28 U.S.C. §1332(a); *Johnson v. Columbia Props. Anchorage, L.P.*, 437 F.3d 894, 899-900 (9th Cir. 2006). Plaintiff is a citizen of Texas. Defendant Global Freight is incorporated under the laws of the state of California, with its principal place of business in Olivehurst, California. Defendant Julie C. Breitenfield is an individual and a citizen of and domiciled in the state of California.

4. Additionally, the amount in controversy exceeds \$75,000, excluding interest and costs. 28 U.S.C. §1332(a); *Andrews v. E.I. du Pont de Nemours & Co.*, 447 F.3d 510, 514-15 (7th Cir. 2006). Plaintiff pleads for damages over \$1,000,000.00. *See* Exhibit "B".

5. Plaintiffs seek recovery for Decedent's past medical expenses, physical pain and mental anguish and funeral expenses. Plaintiffs also seek recovery for their mental anguish, loss of financial support, inheritance, companionship, solace, and consortium. *See* Exhibit "B".

6. The Fifth Circuit has held that a court can "determine that removal [is] proper if it is facially apparent" that the claims alleged in the petition "are likely above" the jurisdictional minimum. *Allen v. R & H Oil & Gas. Co.* 63 F.3d 1326, 1335 (5th Cir. 1995). The "facially apparent"

evaluation is done by looking “at the face of the complaint [and] asking whether the amount in controversy [is] likely to exceed” the jurisdictional amount. *Id.* at 1336.

7. Based on the nature of Plaintiffs’ claims that they seek wrongful death and survivorship damages in excess of \$75,000, it is apparent on the face of Plaintiffs’ Original Petition that the damages sought by Plaintiffs exceed the minimal jurisdictional limits of this court. *Gerbias v. Wal-Mart Stores, Inc.*, 233 F.3d 880, 883 (5th Circuit 2000) (it was “facially apparent” that petition in slip and fall case satisfied amount in controversy requirement).

8. Copies of all pleadings, process, orders, and other filings in the state court suit are attached to this notice as required by 28 U.S.C. §1446(a). *See* Exhibits A and B.

9. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the suit has been pending is located in this district.

10. Defendant Global Freight will promptly file a copy of this Notice of Removal with the clerk of the state court where the suit has been pending.

C. Jury Demand

11. Defendant Global Freight demands a trial by jury.

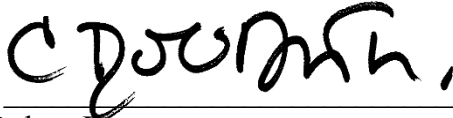
D. Conclusion

12. Removal of this action is proper under 28 U.S.C. § 1441, since it is a civil action brought in state court over which this Court has original jurisdiction under 28 U.S.C. § 1332 because all Plaintiffs and all Defendants are diverse in citizenship.

13. For these reasons, Defendant Global Freight asks the court to remove the suit to the United States District Court for the Western District of Texas, Del Rio Division.

Respectfully submitted,

DORSETT, JOHNSON & SWIFT, LLP

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ATTORNEYS FOR DEFENDANT

**GLOBAL FREIGHT MANAGEMENT,
INC.**

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am a member of the firm of Dorsett Johnson & Swift, LLP, attorneys for the Defendant herein, and that I have provided a copy of the foregoing to all counsel of record as reflected below this 2nd day of November, 2018.

Via Electronic Case Filing and

Electronic mail:

David L. Rumley

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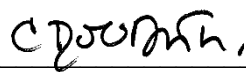
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